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STATE FOR INL, EUR/RPM AND EUR/NB
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TAGS: [SNAR](#) [KTFN](#) [EFIN](#) [KCRM](#) [IC](#)

SUBJECT: ICELAND: 2009 INTERNATIONAL NARCOTICS CONTROL STRATEGY
REPORT (INCSR) PART 2: MONEY LAUNDERING

REFS: A)STATE 104800
B)REYKJAVIK 259

¶1. Post provides the following submission for Part 2 of the INCSR report. Part 1 (Narcotics) was transmitted Ref B.

¶2. Begin text of submission:

Iceland

Money laundering is not considered a major problem in Iceland, though international observers have questioned the effectiveness of the anti-money laundering regime in the country. The Icelandic Penal Code criminalizes money laundering regardless of the predicate offense, although the code specifies that sentences in cases involving multiple crimes be determined based on the worst crime. Therefore, if a case involves both drug offenses and money laundering, the sentence will be based on the laws that concern the drug case. In cases that concern money laundering activities only, the maximum sentence is ten years' imprisonment.

Iceland based its money laundering law on the Financial Action Task Force's (FATF's) Forty Recommendations. In June 2006, the parliament passed the Act on Measures to Counteract Money Laundering and the Financing of Terrorist Acts (MCML-FTA). This legislation replaces the 1993 Act on Measures to Counteract Money Laundering (MCML) and subsequent amendments. The legislation covers a broad range of financial institutions, but is more specific than the previous legislation, and imposes obligations on legal entities to report any suspicious activities to the authorities. The legislation extends requirements against money laundering and financing of terrorism to the full range of designated non-financial businesses and professions. The MCML-FTA covers a broader scope of designated non-financial business and professions in items, including attorneys, auditors, real estate dealers, and other service providers and dealers in accordance with FATF recommendations.

The MCML-FTA also applies due diligence laws to the legal entities that fall under the reporting requirement. There are provisions in the law that allow for a fine for failure to comply.

The regulation for the MCML-FTA requires that any suspicion that a transaction can be traced to money laundering or terrorist financing shall be reported to the Economic Crime Division of the National Commissioner of Police, specifically to the Financial Intelligence Unit (FIU). The law requires those legal entities that fall under the reporting requirement to pay special attention to non-cooperative countries and territories (NCCTs) that do not follow international recommendations on money laundering. The Financial Supervisory Authority (FME), the main supervisor of the Icelandic financial sector, is to publish announcements and instructions if special caution is needed in dealing with any such country or territory.

The MCML requires banks and other financial institutions, upon opening an account or depositing assets of a new customer, to have

the customer prove his or her identity by presenting personal identification documents. The legal entities that fall under the reporting requirement shall verify customers' reliability: when they make individual transactions amounting to 15,000 euros (ISK 2.25 million) or more; at the beginning of a permanent business relationship; when making currency exchange amounting to 1,000 euros (ISK 150,000) or more, whether the transaction takes place in one or more related transactions; when there is suspicion of money laundering or the financing of terrorist acts, without regard to exceptions or limitations of any kind; or when there is doubt that information about a customer is correct or reliable enough.

An individual party may not leave the country with more than the equivalent of 15,000 euros in cash, unless it is accounted for at the customs authorities. As Iceland is now facing a severe financial crisis, the parliament granted the Central Bank the authority to issue rules on foreign exchange in order to support the exchange value of the ISK. On December 1, the Central Bank used its authority to issue such rules. Among other things, the rules dictate that Icelandic banks cannot sell more than 500,000 ISK in foreign currency to any individual party per calendar month. These rules are meant to be temporary measures.

Financial institutions record the name of every customer who seeks to buy or sell foreign currency. All records necessary to reconstruct significant transactions are maintained for at least seven years. Employees of financial institutions are protected from civil or criminal liability for reporting suspicious transactions.

In July 2007, the FATF released its first evaluation of the Icelandic money laundering and terrorist financing regime since the passage of the new legislation. The report expressed concerns regarding the effectiveness of the enforcement system. It noted that penalties for money laundering seem disproportionately low and as a result not dissuasive. In addition, there has been a decline in the number of money laundering prosecutions and convictions in recent years, despite a rise in the number of Suspicious Transaction Reports (STR), a steep increase in the number of drug crimes, and an extraordinary expansion of the financial sector.

On terrorist financing, the report noted that the law defines terrorist financing in broad terms but fails to fully cover the financing of acts listed in the Terrorist Financing Convention. The effectiveness of provisional and confiscation measures is satisfactory, but further improvement would make them even more effective. The report recommends that Iceland adopt a comprehensive mechanism to freeze assets in the context of UN Security Council Resolution S/RES/1373. Furthermore, the FATF report suggests that Icelandic authorities increase sanctions for directors and managers of financial institutions found to be in violation of the law.

As noted, suspicious transaction reports (STRs) have consistently risen in Iceland in recent years, but Icelandic authorities continue to ascribe this to better training and awareness of the issue. The FIU has an officer assigned to cover suspicious transactions and has expanded the training provided to financial institutions to include those working at financial intermediaries such as lawyers and accountants. The FIU received 241 STRs in 2003, 301 STRs in 2004, 283 STRs in 2005, 323 STRs in 2006, and 496 STRs in 2007.

The first successful prosecution under the money laundering law occurred in 2000. There have been nine cases prosecuted since then, with convictions resulting in each case. There were no money laundering prosecutions in 2008.

Iceland's FIU is the primary government agency responsible for asset seizures and is authorized under the criminal code to freeze or seize funds based on reasonable suspicion of criminal activity. There are no significant obstacles to asset seizure in practice. The FME and the FIU make every effort to enforce existing drug-related asset seizure and forfeiture laws. In recent years, asset seizure has become quite common in embezzlement crimes, while only a small fraction of total asset seizures has related to money laundering. Under the Icelandic Penal Code, any assets confiscated on the basis of money laundering investigations must be delivered to the Icelandic State Treasury. There have been no instances of the U.S. or any other government requesting seized assets from Iceland. Foreign transfer or sharing of seized assets is not covered by

existing legislation.

Icelandic law specifically criminalizes terrorism and terrorist acts, and requires the reporting of suspected terrorist-linked assets and transactions involving possible terrorist operations or organizations. A March 2003 amendment to the Law on Official Surveillance on Financial Operations strengthened Iceland's ability to adhere to international money laundering and asset freezing initiatives and agreements. In accordance with international obligations or resolutions to which Iceland is a party, the FME shall publish announcements on individuals or legal entities (companies) whose names appear on the UNSCR 1267 Sanction Committee's consolidated list or on European Union clearinghouse list and whose assets or transactions Icelandic financial institutions are specifically obliged to report to authorities and freeze. Prior to the amendment, the government had to publish the names of terrorist individuals and organizations in the National Gazette in order to make them subject to asset freezing. The government formally enacted financial freeze orders against individuals and entities on the UNSCR 1267 Sanction Committee's consolidated list. Government of Iceland officials have said they will consider applying their terrorist asset freeze strictures against U.S.-only designated entities (i.e., names not on UN or EU lists) on a case-by-case basis. To date, Iceland has discovered no terrorist-related assets or financial transactions.

When dealing with other European Economic Area (EEA) member countries, the FME can disclose confidential information to other governments, provided that this sharing is beneficial for conducting investigations of suspicious money laundering activities, and that EU Data Protection guidelines are followed. Concerning requests for information from countries outside of the EEA, the FME may, on a case-by-case basis, disclose to supervisory authorities information under the same conditions of confidentiality. To date there have been no requests from either EEA or non-EEA countries for an exchange of information concerning suspected acts of money laundering.

There is currently no agreement (nor discussions toward one) between Iceland and the United States to exchange information concerning financial investigation, and no Mutual Legal Assistance Treaty (MLAT). The National Commissioner of Police has acted on tips from foreign law enforcement agencies in the investigation of money laundering activities, and the process of international cooperation with the law enforcement authorities of other countries appears to work smoothly.

Iceland is a party to the 1988 UN Drug Convention; the Council of Europe Convention on Laundering, Search, Seizure, and Confiscation of the Proceeds from Crime; the UN Convention against Transnational Organized Crime (ratified May 2008); and the UN International Convention for the Suppression of the Financing of Terrorism. Iceland is party to several multilateral conventions on terrorism and rules of territorial jurisdiction, including the 1977 European Convention on the Suppression of Terrorism. Iceland is a member of the FATF, and its financial intelligence unit is a member of the Egmont Group.

The Government of Iceland should continue to enhance its anti-money laundering/counterterrorist financing regime through the enforcement of existing laws, review and implementation of FATF recommendations for effective use of that legislation and reinforcement of relevant institutions' understanding of the regime.

End text of submission.

VAN VOORST